

**MINUTES
OF THE REGULAR MEETING OF THE
EDINA CITY COUNCIL
HELD AT CITY HALL
NOVEMBER 20, 2007
7:00 P.M.**

ROLLCALL Answering rollcall were Members Bennett, Housh, Masica, Swenson and Mayor Hovland.

CONSENT AGENDA ITEMS APPROVED Motion made by Member Swenson and seconded by Member Housh approving the Council Consent Agenda with the exception of Agenda Item I. the November 5, 2007 Regular Meeting Minutes and Agenda Item IV. E. Traffic Safety Report of November 7, 2007.

Roll call:

Ayes: Bennett, Housh, Masica, Swenson, Hovland.

Motion carried.

MINUTES OF THE REGULAR MEETING OF NOVEMBER 5, 2007 APPROVED AS AMENDED Member Masica asked that a change be made to November 5, 2007, Minutes of the Regular meeting as follows: page 2, paragraph 4, last sentence shall read: "These included: phasing of the mitigation schedule, the City would decide who will pay for any updates to the AUAR, the AUAR would need to be updated if development was not accomplished within five years, the timeline for housing projections update, the concern with the City of Bloomington's comments regarding the sewer interceptor and a request for a chart showing mitigation efforts as they ~~happen~~ are proposed over a specific timeline." **Member Masica made a motion to adopt the November 5, 2007 Regular Meeting Minutes as amended.** Member Swenson seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland.

Motion carried.

***MINUTES OF THE WORK SESSION OF NOVEMBER 5, 2007, APPROVED** Motion made by Member Swenson and seconded by Member Housh approving the Minutes of the Work Session of November 5, 2007.

Motion carried on roll call vote – five ayes.

FIRST READING GRANTED TO ORDINANCE NO. 2007-16 AMENDMENT TO SUBSECTION 850.11 REGARDING BUILDING HEIGHT IN THE R-1 ZONING DISTRICT AND STAFF DIRECTED TO PREPARE MORATORIUM ORDINANCE FOR CONSIDERATION Affidavits of Notice were presented approved and ordered placed on file.

Planner Teague said the City Council asked the Planning Commission to make a recommendation on a Zoning Ordinance amendment regarding height as recommended by the Massing Task Force. He reported the Planning Commission met on October 31, 2007, and unanimously recommended approval of the ordinance as proposed. The Commission added that while the proposed ordinance was good, it likely would not address the massing issue that had been raised by many of Edina's residents.

Mr. Teague offered the following summarization of the recommendations:

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1. Definition of building height should be amended to measure height from the existing ground elevation as opposed to the proposed ground elevation.

The Planning Commission agreed with the Massing Task Force in eliminating the previous recommendation for measuring height from the average elevation from around the home. The reasons were as follows:

- Lots that contain slopes would be penalized by the proposed amendment. The height requirement would be more restrictive for a sloping lot than a flat lot.
 - The massing issue was more about the street elevation and building separation between houses from side to side; and not about the rear yard elevation. The separation between homes in the rear yards was greater given rear yard setbacks.
 - Edina's current height regulations were in keeping with other similar sized cities in the Metro area.
 - The two zoning ordinance changes regarding increased side yard setbacks for narrow lots, and low floor elevation for new homes may result in reducing the height of new homes.
 - The new ordinance should be monitored over the next year to determine its effectiveness. If it was not working to reduce height, additional changes could be considered then.
2. The Planning Commission and Task Force further recommended that when a home was to be rebuilt after a tear down, the first floor elevation of the new home may not be more than one-foot above the first floor elevation of the home that was torn down. This was a change from the current regulation that prevents the low floor or basement elevation from being raised more than one foot.

Mr. Teague said it was believed that holding the first floor elevation at the same level as the previous home would ensure that new homes would be more in character with adjacent homes from the ground level. If a new home wanted taller ceilings in the basement than the previous home, to do so, they would have to dig down deeper in order to meet a similar first floor elevation with the previous home. He explained under the current regulation, the low floor of a new home could be elevated by one foot. If a new home builder wanted to increase the basement ceiling by 2-3 feet, and they added one foot to the elevation, the result would be a first floor elevation increase of 3-4 feet from the previous home, which the Task Force believed would not be in character with the adjacent homes.

Mr. Teague added the City Council had recommended that a "rebuilt home" be specifically defined in the ordinance, however, defining a rebuilt home can be problematic. He said within the Country Club District, a rebuilt home was defined as: "The physical alteration of a home, such that 50% or more of the surface area of all exterior walls, in the aggregate, are removed." Rebuilt homes within the District that meet this definition require a Certificate of Appropriateness from the Heritage Preservation Board. Mr. Teague said this definition can be difficult at times to enforce based on construction plans that were submitted with a building permit. In addition, often times more demolition occurs once construction begins.

Concluding, Mr. Teague stated staff recommended revising the ordinance to limit all construction, whether it was a tear down rebuild or an addition to increasing the first floor elevation no more than one foot above the existing first floor elevation.

Mr. Teague added the Planning Commission discussed a proposed ordinance for a 5-foot setback for the opening of an egress window. Staff has since followed up on several comments from the Commission including safety and drainage concerns. Staff has also discovered that 127 egress window permits were issued in 2006 alone. Therefore, requiring a 5-foot setback could create a significant increase in variance requests. As a result of the new information, staff would like to review the issue more, and bring it back to the Planning Commission for additional review and comment. A final recommendation on this issue will be brought back to the City Council for consideration.

Public Comment

Sandy Carlson, 5304 Oaklawn Avenue, expressed her concern about the large homes especially the one next to her property. Ms. Carlson showed a four minute video presentation on large homes being rebuilt on small lots.

Jay Carlson, 5304 Oaklawn Avenue, echoed Sandy Carlson's comments and urged Council to maintain residential neighborhood by looking at all options including Floor Area Ratio, Neighborhood Appropriate Scaling and Architectural Review Board if necessary.

Jeff Terwillinger 5345 Oaklawn Avenue, showed photographs of examples of new houses and their scale in relation to the smaller homes surrounding them. He supported additional regulations to protect residential neighborhoods.

Jeff Holker, 5241 Oaklawn Avenue, requested the Council enact a moratorium on tear downs of homes and establish a joint City/Homeowner Review Board. He presented his recommendations in writing.

Pam Starkey, 5331 Oaklawn Avenue, requested the Council enact a moratorium pending adoption of regulations that would protect residential neighborhoods.

Tom Whaley, 5337 Wooddale Avenue, detailed information about drainage caused by a large home built adjacent to his property. He pointed out a need for regulation regarding drainage when tear downs take place.

Robert Larsen, 5037 Indianola Avenue, suggested establishing a design review board similar to Lake Forest, Illinois.

Kitty O'Dea, 4610 Bruce Avenue, supported a moratorium and enacting regulations limiting the size of homes being built after demolition.

Tom Bakritges, 2960 Centerpoint Drive, Roseville, representing Twin Cities Builders Association, opposed any moratorium and suggested rather workshops with builders and homeowners.

Margaret Busyn, 5018 Arden Avenue, resident and builder opposed a moratorium and stated Council and residents must work together to find a solution to the massing issue.

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Jennifer Terwilliger, 5346 Oaklawn Avenue, supported a moratorium, and stated homes can be remodeled and do not need to be razed and rebuilt.

Tony Giannakakis, 5428 Halifax Avenue, opposed a moratorium. He said it would hurt people who desire to sell their property.

Kevin Bennett, 4520 Laguna Drive, opposed moratorium, stating it would hurt not help.

Bill Haertzen, 6400 Interlachen Drive, stated he believed the issue was really large houses on small lots and that a moratorium west of TH100 would hurt Edina. Leadership was needed on regulations.

Virginia Anderson, 5029 Indianola Avenue, stated she tripled size of home twelve years ago without changing its character. If Council decided to enact moratorium limit it to six months.

Jeff Miller, 4509 Garrison Avenue, stated he lived in a small rambler on a lake and expressed concern with using an overall floor area ratio. He did not support a moratorium.

Steve Elie, 4520 Tower Street, said a moratorium will harm the economy. He said he believed the problems that exist were of design that a moratorium would not solve those problems.

Elizabeth Johnson, 5513 Brookview Avenue, supported a moratorium, because the overly large houses were negatively impacting values of residential neighborhoods.

John Smaby, 5224 Halifax Avenue, stated he believed a moratorium would be a mistake. Mr. Smaby said you cannot legislate away from "bad house."

Steve Timmer, 5348 Oaklawn Avenue, supported a moratorium and added it was the only practical way to stop further problems from happening, while finding a solution.

Scott Busyn, 5018 Arden Avenue, suggested the problem was more a design issue than a size issue. He suggested that a middle ground be found and urged preservation of property rights.

John Shaw, 101 NE Main #7, Minneapolis, said he has built many homes in Edina and that there was a natural slowing process already in place. He urged to find a solution other than a moratorium.

Lynn Hechanova, 5649 Interlachen Circle, said she lived west of TH100 and that small lots exist in her neighborhood. Homes must be appropriate to the lot. Ms. Hechnova suggested a moratorium for a shorter period than twelve months.

Jevne Bennett, 4520 Laguna Drive, stated she was one of the families that a moratorium would place in limbo. She agreed that there was a need for regulations.

Pamela Allen, 5129 Indianola Avenue, said her home was for sale and urged other alternatives be looked at in lieu of a moratorium, such a design review board.

John Prin, 6332 Wilryan Avenue, said he supported a moratorium on the east side of TH100 for six months.

Bob McGarry, 5513 Brookview, said that twenty-five percent of the homes in his neighborhood have either been torn down or remodeled. Mr. McGarry was not sure he supported a moratorium, but that something needed to be done.

Dan Starkey, 5331 Oaklawn Avenue, gave his support for a moratorium and a design review board.

Molly Perry, 5101 Irving Avenue So., Minneapolis, stated she hoped to build her dream home on property in Rolling Green and expressed concern about the effect of a moratorium would have on her ability to complete the purchase of the lot and building of her new home.

Jay Hiniker, 5015 Arden Avenue, stated redevelopment was essential to ongoing community. He expressed concern with a moratorium and hoped the Council moved forward in a prudent manner.

Molly Smith, 5333 Wooddale Avenue, said she moved to Edina because of the schools and that she valued the older homes and urged action be taken to preserve them before they become forever lost.

Peder Larson, 5325 Oaklawn Avenue, stated he believed moratoriums were a tool to allow cities to protect themselves while they figure out solutions to difficult problems. He stated he supported a moratorium.

Ted Garrity, 5701 Abbott Avenue, stated he had plans to remodel his home and was uncertain if he would actually tear it down. A moratorium would hurt his family. He said people do not know about the potential moratorium.

Lawrence Stephenson, 4836 Maple Road, stated that he believed a process was needed, perhaps a design review board, but he did not believe a moratorium was the answer.

Rod Hardy, 5300 Oaklawn Avenue, stated he was a member of the Zoning Board of Appeals. He suggested a design review committee could work alongside the Zoning Board of Appeals. He cautioned a moratorium may have a negative impact, but suggested the Council pause.

Brian Belanger, 5533 Oaklawn Avenue, supported a moratorium, and noted it would be temporary, but that large houses were permanent.

Susan Covnick, 4715 Golf Terrace, expressed concern over a moratorium and support for some kind of design review process. She suggested the Council look to see what other cities have considered for solutions to this issue.

Quintin Scott, 5307 Kellogg Avenue, suggested that some type of Architectural Review Board be considered.

Addie Fitzsimmons, 5025 Yvonne Terrace, supported design review board.

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Scott Larson, 508 Wildflower, Burnsville, member of Builders Association. He said that some standards would be in order and indicated that builders would welcome working with City. He urged no moratorium, but rather a six month pause.

Motion made by Member Masica and seconded by Member Housh to close the public hearing.

Ayes: Bennett, Housh, Masica, Swenson, Hovland.

Motion carried.

Member Swenson said that she felt there were two issues before the Council. She indicated a desire to take care of the proposed ordinance and then to discuss the idea of a moratorium. Council concurred.

Member Swenson made a motion granting first reading to Ordinance No. 2007-16 changing the word "lowest" in Section 2, paragraph H, line six to read "first" and directing that additional language be added to the proposed ordinance to deal with not only the R-1 district, but also the R-2 District, and staff to clarify the language in Section 2, paragraph H relative to "split entry home". Member Housh seconded the motion. The Council discussed their desire that the language in the ordinance be clarified relative to split entry and split level homes; and that language be added to address side by side double bungalow type homes.

Ayes: Bennett, Housh, Masica, Swenson, Hovland.

Motion carried.

Mayor Hovland asked staff to relate potential tools before the Council. Mr. Hughes said that relative to enacting a moratorium the Council could enact a moratorium that would be co-terminus with the existing moratorium in the Country Club District that ends April 15, 2008. He said a moratorium could range from restricting all issuances of building permits for any new single family home as well as many additions, to a less restrictive approach of prohibiting demolitions, with many variations between the two. Mr. Hughes noted exceptions could be: 1) limiting demolition on lots where a home previously existed, 2) exempt lots where a building permit was pending or a variance was pending, 3) limiting the geographical area of the moratorium such as east of Highway 100. He concluded that it would be imperative to be very clear in the moratorium as to what was being prohibited.

The Council discussed the issues and concerns regarding enacting a potential moratorium that would end April 15, 2008. The issues and concerns raised and discussed included:

- Design review board – how to enact, need for objective criteria, did any MN city use such a board
- Potential exceptions to a moratorium, and legality of each, that might include: properties that have applied for demolition permit or variance, homes destroyed by fire, currently demolished lot, new un-built lot, owner occupied rebuild (staff pointed out that owner occupied determination would be difficult), geographical location, and limited to certain lot sizes either certain widths or total lot area.
- Desire to get work completed in less time than five months, develop work plan and aggressively pursue
- Look at some kind of Floor Area Ratio(FAR) overlay, implementation of more zoning districts i.e. R-1a R-1b, neighborhood appropriateness scale, and possible a tree replacement program

- Acknowledged that enacting moratorium was difficult and could pose a financial hardship in some cases, but that not changing regulations could also pose financial hardship
- Concern over enacting moratorium before impact of newly adopted regulations was known
- New regulations should require some type of neighborhood meeting before a demolition permit may be issued
- Consider the possibility of convening another group of interested citizens to work with staff on potential solutions to issues
- Discussion of whether public hearing should be held before considering a moratorium, noting comment would be accepted when the moratorium issue was presented to the Council
- Staff to develop options for ordinance amendments and bring them to Council at their second meeting in January

The Council directed staff to prepare a moratorium ordinance on demolition of homes with the exceptions previously noted, for Council consideration at their meeting December 4, 2007.

ORDINANCE NO. 2007-17 ADOPTED AMENDING SUBSECTION 850.21 OF THE CITY'S FLOOD INSURANCE RATE MAP Affidavits of Notice were presented approved and ordered placed on file.

Mr. Teague explained the Federal Emergency Management Agency (FEMA) has revised the Flood Insurance Rate Map for Edina. The City must amend its ordinance to reflect the FEMA revisions. He said the City Engineer had reviewed the revisions and had no objections and the Planning Commission unanimously recommended adoption of the revisions. Mr. Hughes stated the revisions would benefit Brookside Court Condominiums.

No one appeared to offer public comment.

Motion made by member Housh and seconded by Member Bennett to close the public hearing.

Ayes: Bennett, Housh, Masica, Swenson, Hovland.

Motion carried.

Member Swenson made a motion to adopt Ordinance No. 2007-17 amending Subsection 850.21 regarding an amendment to the City's Flood Insurance Rate Map. The motion included waiver of second reading of the ordinance. Member Bennett seconded the motion.

Rollcall:

Ayes: Bennett, Housh, Masica, Swenson, Hovland.

Motion carried.

PUBLIC COMMENT

No one appeared for public comment.

***RESOLUTION NO. 2007-124 ADOPTED AUTHORIZING SENIOR CITIZEN DEFERRALS SPECIAL ASSESSMENTS BEGINNING 2008** Member Swenson made a motion to adopt Resolution No. 2007-124 approving applications for Senior Citizen Deferrals for Special Assessments beginning in 2008. Member Housh seconded the motion.

Motion carried on roll call vote – five ayes.

CALVIN CHRISTIAN SCHOOL LANDSCAPE PLAN AMENDMENT CONTINUED TO DECEMBER 4, 2007

Mr. Teague stated the Calvin Christian School recently removed twelve trees from their property in preparation for the building addition that was approved by the City Council on August 7, 2007. He said the removal of the trees constituted a violation of the approved conditional use permit, as these trees were to be relocated on the site, according to the approved landscape plan. Mr. Teague said the applicant has stated that the trees were too large to replant, and if the trees had been relocated, would not have survived.

He continued stating to remedy the violation, a revised landscape plan has been submitted for Council consideration. Mr. Teague said the revised plan would meet the City's ordinance regarding the number of over-story trees required for the site. The revised plan would in addition to replacing the twelve trees that were cut down, adds five additional trees for a total of seventeen trees. The applicant has also been required by Minnehaha Creek Watershed District to install four rain gardens. Within the rain gardens, there will be an additional 264 plantings.

Mr. Teague reported the applicant held a neighborhood meeting on November 12th at the school, to present the revised plan to the neighborhood. He noted the City Council has two options: 1) If the revised landscape plan was believed to be an acceptable remedy to the violation, approve the revised plan, with the condition that the plans shall be subject to review by the City Forester or 2) If the revised plan was not acceptable, refer a revised conditional use permit back to the Planning Commission for consideration.

Member Bennett pointed out that twenty-one trees were actually removed from the site.

Ed Kodet, Kodet Architectural Group, Ltd, 15 Groveland Terrace, Minneapolis, representing Calvin Christian School requested the Council to approve the revised landscaping plan as presented. He stated the School has added plantings and trees beyond what was originally requested in their proposed plan.

The Council expressed their displeasure that the conditional use permit had been violated. They indicated their desire that the neighborhood have an opportunity to meet and voice their opinion on the proposed revised plan. Following their discussion, **Member Housh made a motion to continue the consideration of the Calvin Christian School request for an amendment to their landscape plan until December 4, 2007, to allow time to hold a neighborhood meeting with a record of the proceedings.** Member Bennett seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

OPUS DESIGNATED DEVELOPER - EDINA PUBLIC WORKS PROPERTY Mr. Hughes said October 12, 2007, staff received two proposals for the relocation and redevelopment of the Edina Public Works Facility. The two proposals were from Opus and Ryan Companies. Opus proposed a relocation of the Public Works facility to the current Con Agra Foods site at 7450 74th Avenue, in the industrial area of the city's southwest corner. Ryan Companies proposed the Gabberts warehouse site, located at 7215 Cahill Road. He noted staff presented the two proposals to the City Council at a work session on November 5, 2007. Mr. Hughes explained the RFP envisioned a two-step process. Step 1 was to be the submission of qualifications and conceptual plans. He said

the second step would be for the Council to select a developer as a finalist, and then that developer would submit more detailed plans and financial analysis.

Mr. Hughes said the RFP required the following information to be submitted:

1. A description of previous development experience.
2. Qualifications of the development team including the owner/developer, project manager, architect, site planner and any other major entities of the development.
3. A description of the developer's financial strength and a preliminary financial analysis which describes the contemplated project financing including proposed public financial participation, if any.
4. A conceptual plan and narrative which depicts the proposed land use, the intensity of development, the development's relationship to surrounding properties and a proposed development schedule. The conceptual plan need not include schematic design or elevations but should be sufficiently detailed to allow the City to understand the development concept.
5. Survey of proposed site for relocated Public Works Facility, and relevant building drawings.
6. Developer should be able to demonstrate that the proposed site for the relocated Public Works Facility was legally controlled or owned by the developer.

Mr. Hughes stated staff recommended designating Opus as developer of the Public Works property, and requested that Council authorize staff to commence negotiations with respect to a development agreement for the relocation of the Public Works facility, and redevelopment of the existing Public Works site.

Following a brief discussion, **Member Housh made a motion designating Opus as developer of the Edina Public Works property and authorizing staff to commence negotiations with respect to a development agreement for the relocation of the Public Works facility and redevelopment of the existing Public Works site.** Member Swenson seconded the motion. Member Masica asked if she should recuse herself from the vote due to having a close relative employed by Opus. Attorney Knutson said if the relative did not live in her home, it was not a conflict. Member Masica said they did not, but that she intended to recuse herself from the vote.

Ayes: Bennett, Housh, Swenson, Hovland

Recused: Masica

Motion carried.

RESOLUTION NO. 2007-123 ACCEPTING VARIOUS DONATIONS Mayor Hovland explained in order to comply with State Statutes; all donations to the City must be adopted by resolution and approved by a majority of favorable votes of the Council accepting the donations.

Member Swenson introduced Resolution 2007-123, accepting various donations, and moved approval. Member Housh seconded the motion.

Ayes: Bennett, Housh, Masica, Swenson, Hovland

Motion carried.

TRAFFIC SAFETY REPORT OF NOVEMBER 7, 2007 APPROVED The Council briefly discussed whether signage was planned for Southview Lane informing people of the location of long term parking since parking was going to be limited to twenty minutes. Engineer Houle stated his intention of limiting parking to twenty minutes only until 4:00 p.m. He added that there will be signage directing people to long term parking. **Motion made by Member Swenson and seconded by Member Housh approving the Traffic Safety Report of November 7, 2007.**

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Ayes: Bennett, Housh, Masica, Swenson, Hovland.
Motion carried.

***CONFIRMATION OF CLAIMS PAID** Motion made by Member Swenson and seconded by Member Housh approving payment of the following claims as shown in detail on the check register dated November 8, 2007 and consisting of 25 pages: General Fund \$276,083.09; Communications Fund \$75.00; Working Capital Fund \$25,427.92; Art Center Fund \$6,062.46; Aquatic Center Fund \$211.92; Golf Course Fund \$12,546.08; Ice Arena Fund \$18,595.21; Edinborough Centennial Lakes Fund \$5,909.88; Liquor Fund \$202,132.44; Utility Fund \$53,232.04; Storm Sewer Fund \$3,861.04; PSTF Agency Fund \$2,101.35; Total \$606,238.43 and on check register dated November 14, 2007 and consisting of 42 pages: General Fund \$196,380.21; CDBG Fund \$32,632.00; Communications Fund \$4,811.97; Working Capital Fund \$60,642.07; Construction Fund \$5,384.46; Art Center Fund \$8,948.55; Golf Dome Fund \$2,697.72; Aquatic Center Fund \$776.38; Golf Course Fund \$21,028.57; Ice Arena Fund \$31,867.95; Edinborough Centennial Lakes Fund \$12,108.50; Liquor Fund \$194,338.47; Utility Fund \$455,345.25; Storm Sewer Fund \$2,042.36; Recycling Fund \$33,958.00; PSTF Agency Fund \$214.50; Total \$1,063,176.96.

Motion carried on rollcall vote – five ayes.

***PETITION RECEIVED REQUESTING SIDEWALK ON WEST SIDE OF HALIFAX AVENUE** Member Swenson made a motion to receive the petition requesting sidewalk on the west side of Halifax Avenue between 51st Street and 54th Street. Member Housh seconded the motion.

Motion carried on roll call vote – five ayes.

CITY HALL TO CLOSE ALL DAY DECEMBER 24, 2007 Mr. Hughes noted that in past years it has been the practice to give staff the entire day off on December 24th when it falls on a Monday. He indicated his intention to do this December. Consensus of the Council was affirmative in giving staff the entire day off. No formal action required.

There being no further business on the Council agenda, Mayor Hovland declared the meeting adjourned at 11:23p.m.

Respectfully submitted,

Debra A. Mangen, City Clerk